Remarks

The Office Action mailed July 14, 2003 and made final has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1-31 are now pending in this application. Claims 1-25 stand rejected. Claims 26-31 have been newly added.

A fee calculation sheet for the newly added claims along with authorization to charge a deposit account in the amount of the calculated fee are submitted herewith. Additionally, in accordance with 37 C.F.R. 1.136(a), a one-month extension of time is submitted herewith to extend the due date of the response to the Office Action dated July 14, 2003 for the above-identified patent application from October 14, 2003 through and including November 14, 2003. In accordance with 37 C.F.R. 1.17(a)(2), authorization to charge a deposit account in the amount of $110.00 to cover this extension of time request also is submitted herewith.

The rejection of Claims 1-25 under 35 U.S.C. § 103(a) as being unpatentable over McCauley et al. (U.S. Patent No. 6,067,533) ("McCauley") in view of Rosenwald (U.S. Patent No. 6,038,550) and further in view of Stout, Jr. et. al. (U.S. Patent 5,878,404) ("Stout") is respectfully traversed.

Applicant respectfully submits that none of McCauley, Rosenwald, or Stout, considered alone or in combination, describe or suggest the claimed invention. As discussed below, none of McCauley, Rosenwald, or Stout, considered alone or in combination, describe or suggest utilizing a collections model to predict a payment behavior for a borrower of a non-stationary asset-based loan included within a distressed loan portfolio, wherein the collections model is based on historical payment information of the borrower and a plurality of collection strategies that may be utilized for collecting payment from the borrower, and wherein non-stationary asset based loans include at least one of automobile loans, vehicle loans, and credit card loans.

Furthermore, none of McCauley, Rosenwald, or Stout, considered alone or in combination, describe or suggest initiating at least one of the plurality of collection strategies with respect to the borrower, analyzing the borrower's payment behavior after initiating the at

least one collection strategy, comparing the borrower's payment behavior after initiating the at least one collection strategy to the predicted payment behavior of the borrower, utilizing a re-marketing model to calculate an amount generated and expenses incurred from repossessing the non-stationary asset used as collateral for the borrower's loan, the re-marketing model further calculates a probability that an event will occur impacting payment of the borrower's loan, generating delinquency moving matrices for the group of loans including the borrower's loan, and predicting a roll rate into a next level of delinquency for each loan in the group of loans based upon a payment history of each loan including the payment behavior after initiating the at least one collection strategy and based upon the re-marketing model calculations.

McCauley describes a system for selecting a business plan for nonperforming real estate loans (see column 2, lines 64-67). A first step is for the system to obtain information on specific parameters of a loan and a borrower's financials including property information, personal information on the borrower, personal financial information of the borrower on a monthly basis, assets of the borrower, as well as number of unpaid loan payments (see column 7, lines 1-15). The system also generates a model for a loan modification option that includes a comparison along a scale (110) (see column 7, lines 19-21). The scale is a scale of potential rates of return for a lender in connection with options for dealing with nonperforming loans, including "Default Rate", "Minimum Rate" and "Current Rate" (see column 4, lines 55-60). The "Default Rate" comes from a "Real Estate Owned" (REO) model that determines the lender's likely costs associated with a foreclosure based in part on the lender's past experience with similar foreclosures and in part on information on a property (see column 5, lines 1-5). The "Minimum Rate" accounts for a proposed sale prices of the property with a sale of the property to occur sooner than a sale in the foreclosure (see column 5, lines 37-39). The "Current Rate" is a rate of return corresponding to a current interest rate on new, non-distressed loans purchased by the lender (see column 5, lines 40-42). The system analyzes the generated loan models with predetermined rules of a loan experience database (see column 7, lines 22-24). After a user reviews the analyze sheet with loan model information, the system generates a business plan consistent with the lender's selection (see column 7, lines 33-35).

Rosenwald describes a method and apparatus for managing interest on time deposits, loans, and financial instruments whose value changes over time (see column 1, lines 10-13).

Each day an operator enters the day's date (J) and an interest factor (K) for that date into an interest factor memory 24 via a video display window (14c) (see column 7, lines 3-6). The interest factor is the interest rate for the one day (see column 7, lines 6-7). Each time a new date and interest factor are stored in a location in an interest factor memory (24), a processor (12) calculates a compounding factor (M) and an aggregate factor (L) which are stored with the interest factor (see column 7, lines 7-10). The processor also recalculates any compounding factors and aggregate factors for previous days and updates these factors in the interest factor memory (see column 7, lines 11-13). A principal amount is multiplied by an updated aggregate factor to update an interest value in the interest value memory (see column 7, lines 55-58).

Stout describes a method for managing the amortization of a loan to a debtor that includes the steps of (i) storing in a memory data identifying the debtor, the amount of the loan to the debtor, the principal balance of the loan, an initial rate of interest payable on the principal balance of the loan and the term of the loan, (ii) recording in memory information identifying time payments received from the debtor for principal and interest on the loan as the payments are made, (iii) tracking the reduction in the principal balance of the loan and storing in the memory the principal balance in response to the time payments, (iv) resetting the initial rate of interest on the principal balance to a new rate of interest in response to the debtor's election, and (v) maintaining the initial rate of interest for the balance of the term of the loan in the absence of the debtor's election and resetting of the rate of interest (see column 3, lines 7-22).

Claim 1 recites a method for determining roll rates for a group of non-stationary asset-based loans included within a distressed loan portfolio, the method includes "utilizing a collections model to predict a payment behavior for a borrower of a non-stationary asset-based loan included within a distressed loan portfolio, the collections model is based on historical payment information of the borrower and a plurality of collection strategies that may be utilized for collecting payment from the borrower, non-stationary asset based loans include at least one of automobile loans, vehicle loans, and credit card loans...initiating at least one of the plurality of collection strategies with respect to the borrower...analyzing the borrower's payment behavior after initiating the at least one collection strategy...comparing the borrower's payment behavior after initiating the at least one collection strategy to the predicted payment behavior of the borrower...utilizing a re-marketing model to calculate an amount generated and expenses

incurred from repossessing the non-stationary asset used as collateral for the borrower's loan, the re-marketing model further calculates a probability that an event will occur impacting payment of the borrower's loan...generating delinquency moving matrices for the group of loans including the borrower's loan...and predicting a roll rate into a next level of delinquency for each loan in the group of loans based upon a payment history of each loan including the payment behavior after initiating the at least one collection strategy and based upon the re-marketing model calculations."

None of McCauley, Rosenwald, or Stout, considered alone or in combination, describe or suggest the method recited in Claim 1. More specifically, none of McCauley, Rosenwald, or Stout, considered alone or in combination, describe or suggest utilizing a collections model to predict a payment behavior for a borrower of a non-stationary asset-based loan included within a distressed loan portfolio, wherein the collections model is based on historical payment information of the borrower and a plurality of collection strategies that may be utilized for collecting payment from the borrower, and wherein non-stationary asset based loans include at least one of automobile loans, vehicle loans, and credit card loans.

Furthermore, none of McCauley, Rosenwald, or Stout, considered alone or in combination, describe or suggest initiating at least one of the plurality of collection strategies with respect to the borrower, analyzing the borrower's payment behavior after initiating the at least one collection strategy, comparing the borrower's payment behavior after initiating the at least one collection strategy to the predicted payment behavior of the borrower, utilizing a re-marketing model to calculate an amount generated and expenses incurred from repossessing the non-stationary asset used as collateral for the borrower's loan wherein the re-marketing model further calculates a probability that an event will occur impacting payment of the borrower's loan, generating delinquency moving matrices for the group of loans including the borrower's loan, and predicting a roll rate into a next level of delinquency for each loan in the group of loans based upon a payment history of each loan including the payment behavior after initiating the at least one collection strategy and based upon the re-marketing model calculations.

Rather, in contrast to the present invention, McCauley describes obtaining information on specific parameters of a loan and a borrower's financials, generating a model for a loan

modification option, analyzing the generated loan models with predetermined rules of a loan experience database, and generating a business plan consistent with the lender's selection; Rosenwald describes a method and apparatus for managing interest on loans whose value changes over time; and Stout describes recording in memory information identifying time payments received from a debtor for principal and interest on a loan as the payments are made, and tracking the reduction in the principal balance of the loan and storing in the memory the principal balance in response to the time payments.

Applicant respectfully submits that none of McCauley, Rosenwald, or Stout are directed to non-stationary asset-based loans. In fact, McCauley is directed to distressed residential real estate loans. Therefore, although McCauley discusses a lender's potential rate of return on a loan if the lender chooses to foreclose on a piece of real property (col. 4, lines 43-46), McCauley does not describe nor teach utilizing a re-marketing model to calculate an amount generated and expenses incurred from repossessing a non-stationary asset used as collateral for the borrower's loan wherein the re-marketing model further calculates a probability that an event will occur impacting payment of the borrower's loan. Applicant submits that foreclosing on real property does not teach calculating an amount generated and expenses incurred from repossessing a non-stationary asset used as collateral for a loan. For example, the expenses incurred by a lender in locating a piece of real property is typically nominal.

Applicant also submits that none of McCauley, Rosenwald, or Stout, considered alone or in combination, describe or suggest initiating at least one of a plurality of collection strategies with respect to the borrower, analyzing the borrower's payment behavior after initiating the at least one collection strategy, comparing the borrower's payment behavior after initiating the at least one collection strategy to the predicted payment behavior of the borrower. In fact, it does not appear that any of the cited references are directed at initiating collection strategies and then analyzing a borrower's payment behavior after initiating the collection strategies.

Applicant further submits that none of McCauley, Rosenwald, or Stout, considered alone or in combination, describe or suggest predicting a roll rate into a next level of delinquency for each loan in the group of loans based upon a payment history of each loan including the payment behavior after initiating the at least one collection strategy and based upon the re-marketing

model calculations. Accordingly, Applicant respectfully submits that Claim 1 is patentable over McCauley in view of Rosenwald and further in view of Stout.

For at least the reasons set forth above, Applicant respectfully submits that Claim 1 is patentable over McCauley in view of Rosenwald and further in view of Stout.

Claims 2-6 and 22-23 depend, directly or indirectly, from independent Claim 1 which is submitted to be in condition for allowance. When the recitations of Claims 2-6 and 22-23 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claims 2-6 and 22-23 are also patentable over McCauley in view of Rosenwald and further in view of Stout.

Claim 7 recites a system for determining a roll rate of a distressed loan portfolio including non-stationary asset based loans, the system includes at least one computer, and a server configured with a roll rate determination model including a collections model and a re-marketing model, wherein the server is configured to "access the collections model to predict a payment behavior for a borrower of a non-stationary asset based loan included within the distressed loan portfolio, the collections model is based on historical payment information of the borrower and a plurality of collection strategies that may be utilized for collecting payment from the borrower, non-stationary asset based loans include at least one of automobile loans, vehicle loans, and credit card loans...analyze the borrower's payment behavior after initiating at least one of the plurality of collection strategies...compare the borrower's payment behavior after initiating the at least one collection strategy to the predicted payment behavior of the borrower...access a re-marketing model to calculate an amount generated and expenses incurred from repossessing the non-stationary asset used as collateral for the borrower's loan, the re-marketing model further calculates a probability that an event will occur impacting payment of the borrower's loan...generate delinquency moving matrices for the loan portfolio including the borrower's loan...and predict which loans in the loan portfolio that will roll forward into a next classification of delinquency based upon a payment history of each loan including the payment behavior of a borrower after initiating the at least one collection strategy and based upon the re-marketing model calculations...."

None of McCauley, Rosenwald, or Stout, considered alone or in combination, describe or suggest the system recited in Claim 7. More specifically, none of McCauley, Rosenwald, or Stout, considered alone or in combination, describe or suggest a server configured to access a collections model to predict a payment behavior for a borrower of a non-stationary asset based loan included within a distressed loan portfolio, wherein the collections model is based on historical payment information of the borrower and a plurality of collection strategies that may be utilized for collecting payment from the borrower, and wherein non-stationary asset based loans include at least one of automobile loans, vehicle loans, and credit card loans.

Furthermore, none of McCauley, Rosenwald, or Stout, considered alone or in combination, describe or suggest a server configured to analyze the borrower's payment behavior after initiating at least one of the plurality of collection strategies, compare the borrower's payment behavior after initiating the at least one collection strategy to the predicted payment behavior of the borrower, access a re-marketing model to calculate an amount generated and expenses incurred from repossessing the non-stationary asset used as collateral for the borrower's loan wherein the re-marketing model further calculates a probability that an event will occur impacting payment of the borrower's loan, generate delinquency moving matrices for the loan portfolio including the borrower's loan, and predict which loans in the loan portfolio that will roll forward into a next classification of delinquency based upon a payment history of each loan including the payment behavior of a borrower after initiating the at least one collection strategy and based upon the re-marketing model calculations.

Rather, in contrast to the present invention, McCauley describes obtaining information on specific parameters of a loan and a borrower's financials, generating a model for a loan modification option, analyzing the generated loan models with predetermined rules of a loan experience database, and generating a business plan consistent with the lender's selection; Rosenwald describes a method and apparatus for managing interest on time deposits, loans, and financial instruments whose value changes over time; and Stout describes recording in memory information identifying time payments received from a debtor for principal and interest on a loan as the payments are made, and tracking the reduction in the principal balance of the loan and storing in the memory the principal balance in response to the time payments. Accordingly,

Applicant respectfully submits that Claim 7 is patentable over McCauley in view of Rosenwald and further in view of Stout.

For at least the reasons set forth above, Applicant respectfully submits that Claim 7 is patentable over McCauley in view of Rosenwald and further in view of Stout.

Claims 8-14 and 24 depend, directly or indirectly, from independent Claim 7 which is submitted to be in condition for allowance. When the recitations of Claims 8-14 and 24 are considered in combination with the recitations of Claim 7, Applicant submits that dependent Claims 8-14 and 24 are also patentable over McCauley in view of Rosenwald and further in view of Stout.

Claim 15 recites a computer for determining a roll rate of a distressed loan portfolio including non-stationary asset-based loans, the computer is programmed to "access a collections model to predict a payment behavior for a borrower of a non-stationary asset-based loan included within the distressed loan portfolio, the collections model is based on historical payment information of the borrower and a plurality of collection strategies that may be utilized for collecting payment from the borrower, non-stationary asset based loans include at least one of automobile loans, vehicle loans, and credit card loans...analyze the borrower's payment behavior after initiating at least one of the plurality of collection strategies...compare the borrower's payment behavior after initiating the at least one collection strategy to the predicted payment behavior of the borrower...calculate using a re-marketing model an amount generated and expenses incurred from repossessing the non-stationary asset used as collateral for the borrower's loan, the re-marketing model further calculates a probability that an event will occur impacting payment of the borrower's loan...generate delinquency moving matrices for the loan portfolio including the borrower's loan...and predict which loans in the portfolio that will roll forward into a next classification of delinquency based upon a payment history of each loan including the payment behavior of a borrower after initiating the at least one collection strategy and based upon the re-marketing model calculations."

None of McCauley, Rosenwald, or Stout, considered alone or in combination, describe or suggest the computer recited in Claim 15. More specifically, none of McCauley, Rosenwald, or Stout, considered alone or in combination, describe or suggest a computer for determining a roll

rate of a distressed loan portfolio including non-stationary asset-based loans, the computer is programmed to access a collections model to predict a payment behavior for a borrower of a non-stationary asset-based loan included within the distressed loan portfolio, wherein the collections model is based on historical payment information of the borrower and a plurality of collection strategies that may be utilized for collecting payment from the borrower, and wherein non-stationary asset based loans include at least one of automobile loans, vehicle loans, and credit card loans.

Furthermore, none of McCauley, Rosenwald, or Stout, considered alone or in combination, describe or suggest a computer programmed to analyze the borrower's payment behavior after initiating at least one of the plurality of collection strategies, compare the borrower's payment behavior after initiating the at least one collection strategy to the predicted payment behavior of the borrower, calculate using a re-marketing model an amount generated and expenses incurred from repossessing the non-stationary asset used as collateral for the borrower's loan wherein the re-marketing model further calculates a probability that an event will occur impacting payment of the borrower's loan, generate delinquency moving matrices for the loan portfolio including the borrower's loan, and predict which loans in the portfolio that will roll forward into a next classification of delinquency based upon a payment history of each loan including the payment behavior of a borrower after initiating the at least one collection strategy and based upon the re-marketing model calculations.

Rather, in contrast to the present invention, McCauley describes obtaining information on specific parameters of a loan and a borrower's financials, generating a model for a loan modification option, analyzing the generated loan models with predetermined rules of a loan experience database, and generating a business plan consistent with the lender's selection; Rosenwald describes a method and apparatus for managing interest on time deposits, loans, and financial instruments whose value changes over time; and Stout describes recording in memory information identifying time payments received from a debtor for principal and interest on a loan as the payments are made, and tracking the reduction in the principal balance of the loan and storing in the memory the principal balance in response to the time payments. Accordingly, Applicant respectfully submits that Claim 15 is patentable over McCauley in view of Rosenwald and further in view of Stout.

For at least the reasons set forth above, Applicant respectfully submits that Claim 15 is patentable over McCauley in view of Rosenwald and further in view of Stout.

Claims 16-21 and 25 depend, directly or indirectly, from independent Claim 15 which is submitted to be in condition for allowance. When the recitations of Claims 16-21 and 25 are considered in combination with the recitations of Claim 15, Applicant submits that dependent Claims 16-21 and 25 are also patentable over McCauley in view of Rosenwald and further in view of Stout.

In addition to the arguments set forth above, Applicant also respectfully submits that the Section 103 rejections of the presently pending claims is not a proper rejection. Obviousness cannot be established by merely suggesting that it would have been obvious to one of ordinary skill in the art to modify McCauley using the teachings of Rosenwald and Stout. More specifically, as is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combinations. It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levengood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather, there must be some suggestion, outside of Applicant's disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicant's disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion or motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

None of McCauley, Rosenwald, or Stout, considered alone or in combination, describe or suggest the claimed combination. Rather, the section 103 rejection of Claims 1-25 over McCauley in view of Rosenwald and further in view of Stout appears to be based on a combination of teachings selected from multiple patents in an attempt to arrive at the claimed invention. Specifically, McCauley teaches obtaining information on specific parameters of a loan and a borrower's financials, generating a model for the loan modification option, analyzing the generated loan models with predetermined rules of a loan experience database, and generating a business plan consistent with the lender's selection; Rosenwald teaches a method and apparatus for managing interest on time deposits, loans, and financial instruments whose value changes over time; and Stout teaches recording in memory information identifying time payments received from a debtor for principal and interest on a loan as the payments are made, and tracking the reduction in the principal balance of the loan and storing in the memory the principal balance in response to the time payments. Since there is no teaching nor suggestion for the combination of McCauley, Rosenwald, and Stout, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason also, Applicant requests that the Section 103 rejection of Claims 1-25 be withdrawn.

For at least the reasons set for above, Applicant respectfully requests that the Section 103 rejection of Claims 1-25 be withdrawn.

The rejection of Claims 1-25 under 35 U.S.C. § 112, second paragraph, is respectfully traversed.

Applicant respectfully submits that Claims 1-25 satisfy section 112, second paragraph. More specifically, Applicant respectfully submits that Claims 1-25 are definite and particularly point out and distinctly claim the subject matter of the invention. Applicant has amended Claims 1, 4-7, 10-13, 15, and 18-23. It is therefore submitted that Claims 1-25 clearly and distinctly claim the subject matter of the present invention. Accordingly, Applicant respectfully requests that the rejection under Section 112, second paragraph be withdrawn.

The Office Action suggests at page 3 that "No algorithm, defining equations or methodology is delineated in the model claims proposed by applicant." Applicants respectfully traverse this suggestion. Applicant assumes that the term "model claims" as used by the Examiner on page 3 of the Office Action refers to the "collections model" and the "re-marketing model" recited in Claims 1-25. With respect to the "collections model", the specification describes, for example, at page 4, line 9 through page 6, line 13, the collections model in detail. Figure 1 also illustrates a collections model. With respect to the "re-marketing model", the specification describes, for example, at page 6, line 14 through page 7, line 25, the re-marketing model in detail. Figures 2 illustrates a re-marketing model. Figure 3 illustrates a re-marketing model that includes certain assumptions.

Applicant therefore respectfully submits that Claims 1-25 are definite and particularly point out and distinctly claim the subject matter of the invention. More specifically, Applicant submits that the specification distinctly described the methodology associated with the collections model and the re-marketing model as recited in Claims 1-25. Accordingly, Applicants respectfully request that the rejection of Claims 1-25 under Section 112, second paragraph, be withdrawn.

For the reasons set forth above, Applicant respectfully requests that the rejection of Claims 1-25 under Section 112, second paragraph, be withdrawn.

Newly added Claims 26 and 27 depend from independent Claim 1, which is submitted in a condition for allowance and patentable. When the recitations of Claims 26 and 27 are considered in combination with the recitations of independent Claim 1, Applicant submits that dependent Claims 26 and 27 are also patentable over the cited art.

Furthermore, dependent Claim 26 recites "utilizing a collections model that is based on historical payment information of the borrower, wherein the historical payment information of the borrower includes information relating to the payment of the loan by the borrower for a period of no more than six-months prior to a last payment due date of the loan." None of the cited references teaches a collections model that is based on a borrower's payments for a period of no more than six months prior to a last payment due date of the loan. Accordingly, Applicant further submits that dependent Claims 26 is patentable over the cited art.

Newly added Claims 28 and 29 depend from independent Claim 7, which is submitted in a condition for allowance and patentable. When the recitations of Claims 28 and 29 are considered in combination with the recitations of independent Claim 7, Applicant submits that dependent Claims 28 and 29 are also patentable over the cited art.

Newly added Claims 30 and 31 depend from independent Claim 15, which is submitted in a condition for allowance and patentable. When the recitations of Claims 30 and 31 are considered in combination with the recitations of independent Claim 15, Applicant submits that dependent Claims 30 and 31 are also patentable over the cited art.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,

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